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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

23 CFR Part 1340

Docket No. NHTSA-2010-0002

RIN 2127-AL23

Uniform Criteria for State Observational Surveys of Seat Belt Use

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This final rule amends the implementation date for use of the revised uniform criteria for State Observational Surveys of Seat Belt Use. With this change, States may continue in calendar year 2012 to use a survey design that was approved under the old uniform criteria or, at their election, use a survey design approved under the revised uniform criteria. In calendar year 2013, all States must use a survey design approved under the revised uniform criteria.

DATES: This final rule is effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

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SUPPLEMENTARY INFORMATION:

I. Discussion

On April 1, 2011, the National Highway Traffic Safety Administration (NHTSA) published a final rule setting forth “Uniform Criteria for State Observational Surveys of Seat Belt Use.” 76 FR 18042. That final rule amended the regulation establishing uniform criteria for designing and conducting State observational surveys of seat belt use and the procedures for obtaining NHTSA approval of survey designs, and provided a new form for reporting seat belt use rates to NHTSA.

The final rule specified that beginning with calendar year 2012 surveys, States must use survey designs that have been approved by NHTSA as conforming to the revised uniform criteria. Under the rule, States were required to submit proposed survey designs by January 3, 2012. Almost all States met this deadline. However, in reviewing the proposed survey designs, NHTSA found it necessary to seek clarification from States, in some cases several times. Due to the unanticipated complexity of the review process, only a few States have survey designs that have been approved at this time by NHTSA.

Most States conduct seat belt use surveys in May and June, during the time of the nationally-supported seat belt enforcement mobilization. NHTSA does not believe that proposed survey designs will be approved in time for all States to train data collectors and conduct seat belt use surveys in May and June of 2012. For this reason, NHTSA is amending the final rule to allow States to conduct calendar year 2012 seat belt use surveys using designs approved by NHTSA under the old uniform criteria or, at a State’s election if its new survey design has been approved, under the revised uniform criteria. Beginning in calendar year 2013, all States must

conduct a survey whose design satisfies and is approved by NHTSA under the revised uniform criteria.

II. Rulemaking Analyses and Notices

The Administrative Procedure Act (APA) authorizes agencies to dispense with certain notice procedures for rules when they find “good cause” to do so. See 5 U.S.C. 553(b)(B). Specifically, the requirements for prior notice and opportunity to comment do not apply when the agency for good cause finds that those procedures are “impractical, unnecessary, or contrary to the public interest.”

This final rule would amend only the date by which States must conduct seat belt use surveys using the revised uniform criteria. NHTSA already sought public comment on all other aspects of the revised uniform criteria. See 75 FR 4509 (Jan. 28, 2010). The earlier-published final rule reflects the agency’s consideration of and response to those comments. See 76 FR 18042 (Apr. 1, 2011).

This amendment would relieve a burden on the States and has no safety impact. While most States met the deadline to submit proposed survey designs under the revised criteria, there has been a need for significant consultation during NHTSA’s review of these proposed designs. At this time, only a few States have survey designs that have been approved by NHTSA under the revised uniform criteria. NHTSA does not believe that proposed survey designs will be approved in time for all States to conduct seat belt use surveys during May and June, as is typical practice. Further, notice and comment are “impractical, unnecessary, or contrary to the public interest” given this timeline. This final rule would provide States with sufficient notice so that States may elect to collect data in May and June 2012 using either the old uniform criteria or the revised uniform criteria.

The APA provides that rules generally may not take effect earlier than thirty (30) days after they are published in the Federal Register. See 5 U.S.C. 553(d). However, section 553(d)(1) provides that a substantive rule which grants or recognizes an exemption or relieves a restriction may take effect earlier. Today's final rule, which relieves a restriction, is effective immediately upon publication.

The agency has discussed the relevant requirements of regulatory analyses and notices in the underlying final rule published at 76 FR 18042 (Apr. 1, 2011). Those discussions are not affected by this amendment.

Regulatory Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the Federal Register published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78) or you may visit <http://www.regulations.gov>.

III. Regulatory Text

List of Subjects in 23 CFR Part 1340

Grant programs—Transportation, Highway safety, Intergovernmental

relations, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, the National Highway Traffic Safety Administration amends 23 CFR part 1340 as follows:

PART 1340 – UNIFORM CRITERIA FOR STATE OBSERVATIONAL SURVEYS OF SEAT BELT USE

1. The authority citation for part 1340 continues to read as follows:

Authority: 23 U.S.C. 402; delegation of authority at 49 CFR 1.50.

2. Section 1340.2 is revised to read as follows:

§ 1340.2 Applicability.

This part applies to State surveys of seat belt use beginning in calendar year 2013 and continuing annually thereafter. However, a State may elect to conduct its calendar year 2012 seat belt use survey using a survey design approved under this part.

Issued on: March 28, 2012

David L. Strickland
Administrator

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